IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 2492 OF 2006

Ravindra Waman More & Ors..... Petitioners.

Versus

State of Maharashtra & Ors... ... Respondents.

Mr. U. P. Warunjikar for the Petitioners.

Mr. S.R.Nargolkar, AGP for Respondent Nos.1 and 2.

None for Respondent No.3.

CORAM : V.G. PALSHIKAR, and V.R.KINGAONKAR, JJ.

DATED : 20TH APRIL, 2006.

P.C.:

By this petition, the Petitioners have made the following prayers :-

(a) The Honourable Court be pleased to issue a writ of mandamus, or any other appropriate writ, order or direction in the nature of mandamus, directing Respondent Nos.1 and 2 to take necessary action against Respondent No.3 for performing the kidney transplantation surgery of petitioner on

priority basis within such period as this Honourable Curt may deem fit and proper.

(b) The Honourable Court may further be pleased to issue a writ of mandamus, or any other appropriate writ, order or direction in the nature of mandamus directing Respondent No.3 to perform kidney transplantation on Petitioner and other necessary pre-operative and post-operative treatments within such period as this Honourable Court may deem fit and proper.

(c) During the pendency of this petition, be pleased to direct the Respondent No.3 to perform kidney transplantation on Petitioner and other necessary pre-operative and post-operative treatments.

(d) Ad-interim orders in terms of prayer clause (c) above.

(e) Cost of this writ petition be provided for.

(f) Any other and further orders as this Honourable Court may deem fit, proper and necessary in the circumstances of the case.

2. In effect the prayer is for issuance of writ of mandamus or any direction in the nature thereof to Respondent No.3 to perform kidney transplantation on the Petitioner. Several questions of law arise including maintainability of such petition and extent of power of this Court to issue such writ against private institutions. Looking to the facts and circumstances of this case and taking into consideration the serious condition of the Petitioner, we do not deem it necessary to decide these questions at this stage. We specifically keep all these questions regarding maintainability, extent of writ jurisdiction for such purposes open and relying on the statement made by Shri Nargolkar, learned AGP, appearing on behalf of the State, we direct that Respondent No.3 should perform necessary operation on the Petitioner. Petition accordingly, is disposed of.

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